

**CONSULTATION RESPONSE ON THE IMPLEMENTATION OF THE REMOVAL OF THE
DUTY OF PLANNING AUTHORITIES TO NOTIFY HISTORIC SCOTLAND ON CERTAIN
TYPES OF LISTED BUILDING CONSENT APPLICATION**

By

CITY OF EDINBURGH COUNCIL (CEC)

SUMMARY

The removal of the duty of planning authorities to notify Historic Scotland on certain types of listed building consent application was reported to CEC Planning Committee on 2 October 2008 to inform them of the arrangement in place to include the authority in the 3-month pilot scheme that ran from 1 October to 31 December 2008, and again on 26 February 2009 to inform them of the outcome of the pilot. This consultation response draws upon both reports to Committee.

INTRODUCTION

CEC took part in the 3-month pilot scheme to determine applications for development of works of certain types that affect B listed buildings. This resulted in more efficient handling of applications. The statistical performance improved significantly in relation to those applications that were not part of the pilot exercise and all applications were determined in line with current procedures. However, the monitoring required proved onerous and should inform any future, permanent arrangement.

RESPONSE TO CONSULTATION QUESTIONS

Background

1. CEC, as Planning Authority, processes on average 4,500 applications per year. Decision making follows a long established and robust set of procedures, policies and guidelines and there is a development management team with specific conservation expertise and experience dedicated to processing applications for listed building consent (LBC).

Entry Criteria

2. A planning authority should have in-house conservation expertise and a solid policy foundation in order to qualify for taking responsibility for determining LBC applications. Resources could involve staff training or time taken to form a policy basis for dealing with such responsibility without the 'safety net' of referral to Scottish Ministers. CEC has a dedicated team of officers and a principal officer dealing with LBC applications, which has built up knowledge

and experience and can offer a consistent approach to decision making. CEC also has a series of detailed planning guidelines which address listed building issues within a national and local plan policy framework (see Background Paper 1).

3. Agree with the criteria proposed following the pilot.
4. Agree that planning authority policies should be in line with national policy before taking on responsibility for determining applications.

Scope of Application Types Included

5. The scope of applications identified in Schedule 1 covered areas such as general building maintenance and repair; for example replacement windows and doors, stone cleaning, new shop fronts, small extensions and telecommunications equipment. All of these areas and the others included are subject to detailed CEC policies and guidance that is in keeping with national policy and there was a logical exclusion of demolition and large extensions, for example.

Discussion throughout the pilot identified external ramps and curtilage buildings that require listed building consent as straightforward application types that could have been included in the schedule.

It was considered that the scope of applications formed an extremely useful basis for the pilot exercise, but a more extensive approach assessing the complexity of all proposals would be preferred as it is not practical to list all works that might conceivably be carried out to a listed building to use on a permanent basis.

Under a similar process to identifying whether applications are potentially capable of being determined under delegated powers, a weekly list of all applications received could be sent to Historic Scotland indicating which ones it would be intended to determine without notification to them, affording Historic Scotland the opportunity to request certain of those applications to be notified to them.

Alternatively, it was also considered that the scope of Schedule 1 could be determined by exceptions rather than inclusions provided it remained robust and not open to interpretation (see Background Paper 2).

Given that the Direction can be tailored to individual authorities, Schedule 1 could be extended to include certain works, either by exceptions or inclusions, to category A listed buildings.

Monitoring the Scheme

6. Monitoring reports were prepared for each application within the scope of the pilot. Case officer feedback from the pilot indicated that the monitoring pro-forma duplicated much of the work that is

already done in the report of handling, which is prepared for every application by case officers. In the longer term it was considered that this would be inefficient and that there was scope to streamline the process. In-house practice changed towards the end of the pilot allowing the majority of the pro-forma to be completed by admin staff, which avoided duplication for case officers. However, there was still duplication of information in the application report and the pro-forma. This is perhaps a particular concern given current pressures on staff in managing change resulting from the modernising planning agenda. Monitoring should remain simple and should be careful not to negate the benefits of the pilot, such as allowing faster processing (see Background Paper 2).

7. Monitoring is an extremely important element of the scheme of delegation and will ensure quality of decision making is maintained.
8. It may be worth questioning whether each application should be monitored and the pro-forma completed or Historic Scotland is notified of all decisions and monitors a chosen sample from each authority over a given time period and based on an agreed set of measures. Such measures could take into account whether there was sufficient information to determine the application, whether it was processed in accordance with policy, and whether the scheme was amended to ensure an improvement.
9. No. Would this not be a retrograde step, taking responsibility away from local authorities and increasing workload and time pressures? Again, this could negate the benefits of delegation if an additional layer of admin is added to the processing C(S) listed buildings.

Review

10. Overall performance of individual planning authorities should be reviewed on a case-by-case basis where monitoring has raised a particular issue, where conservation expertise is lost from an authority, or where policy changes are proposed. It may be appropriate for each authority to update Scottish Ministers of such matters annually.
11. Issues that may lead to the withdrawal of the ability of planning authorities to determine applications without notifying Scottish Ministers should include: allowing alterations contrary to policy; where expertise within an authority is lost; and in the event that policy changes are made and become less robust.

General

12. The success of the pilot scheme indicates the possibility that individual authorities have robust processes, procedures and in-house expertise in place enabling them to qualify for taking on the responsibility of issuing listed building consent for straightforward applications. The major benefit demonstrated by the pilot is the improved speed of decision making throughout the 3-month period, typically without conflict. Moreover, allowing issues to be dealt with locally should ensure that Historic Scotland is involved in more significant or complex proposals when it can add value.

BACKGROUND PAPERS

Reports to CEC Planning Committee:

1. 2 October 2008

Changes to the procedures on notification of development proposals affecting B listed buildings - a Pilot between Historic Scotland and the City of Edinburgh Council

http://cpol.edinburgh.gov.uk/getdoc_ext.asp?DocId=117255

2. 26 February 2009

Listed Building Pilot Delegation Scheme

http://cpol.edinburgh.gov.uk/getdoc_ext.asp?DocId=123119